



8 CFR Part 217

Hungary Electronic System for Travel Authorization Validity Period

AGENCY: Office of Strategy, Policy, and Plans; DHS.

ACTION: Announcement of ESTA validity period.

SUMMARY: This document announces that the U.S. Department of Homeland Security (DHS) is reducing Hungary's Electronic System for Travel Authorization (ESTA) travel authorization validity period for travel by citizens or nationals of Hungary under the Visa Waiver Program (VWP) to the United States from two years from the date of issuance to one year and also limiting the validity of an ESTA for citizens or nationals of Hungary to a single use for ESTA applications received after the date of publication of this document. DHS is making these changes based on the Government of Hungary's inability to satisfy a number of VWP requirements.

DATES: This announcement is effective on August 1, 2023.

FOR FURTHER INFORMATION CONTACT: Anjum Agarwala, Visa Waiver Program Office, Office of Strategy, Policy, and Plans, Department of Homeland Security, 2707 Martin Luther King Jr Ave SE, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

A. *The Visa Waiver Program*

Pursuant to section 217 of the Immigration and Nationality Act (INA), 8 U.S.C. 1187, the Secretary of Homeland Security (the Secretary),¹ in consultation with the Secretary of State, may designate certain countries for participation in the Visa Waiver Program (VWP) if certain requirements are met. Those requirements include, among

¹ The Secretary of Homeland Security has delegated this authority to the Under Secretary for Strategy, Policy, and Plans pursuant to DHS Delegation 23000, Delegation to the Under Secretary for Strategy, Policy, and Plans, Sec. II.L.4.

others:

- (1) a rate of nonimmigrant visitor visa refusals for citizens or nationals of the country below the statutorily established threshold;
- (2) certification by the government seeking designation for VWP participation that it issues machine-readable passports that comply with internationally accepted standards;
- (3) a determination by the Secretary, in consultation with the Secretary of State, that the country's designation would not negatively affect U.S. law enforcement and security interests;
- (4) an agreement to report, or make available through INTERPOL or other designated means authorized by the Secretary, information about the theft or loss of passports to the U.S. government within the designated timeframe;
- (5) the country's government's acceptance for repatriation of any citizen, former citizen, or national not later than three weeks after the issuance of a final order of removal; and
- (6) an agreement with the United States to share information regarding whether citizens and nationals of the country traveling to the United States represent a threat to the security or welfare of the United States or its citizens.

See INA section 217(c)(2)(A)-(F), 8 U.S.C. 1187(c)(2)(A)-(F).

The INA also sets forth requirements for countries' continued VWP eligibility and, where appropriate, probation, suspension, or termination of program countries. *See* INA section 217(c)-(f), 8 U.S.C. 1187(c)-(f).

Citizens and nationals of VWP countries may apply for admission to the United States at U.S. ports of entry as nonimmigrant visitors for business or pleasure for a period of ninety days or less without first obtaining a nonimmigrant visa, provided they are otherwise eligible for admission under applicable statutory and regulatory requirements. To

travel to the United States under the VWP, a noncitizen must, without limitation:

- (1) be seeking entry as a visitor for business or pleasure for ninety days or less;
- (2) be a citizen or national of a VWP country;
- (3) present a valid unexpired electronic and machine-readable passport that meets program requirements and is issued by a designated VWP country to the air or vessel carrier before departure;
- (4) execute the required immigration forms;
- (5) if arriving at a port of entry into the U.S. by air or sea, arrive on an authorized carrier;
- (6) not represent a threat to the welfare, health, safety or security of the United States;
- (7) not have failed to comply with the conditions of any previous admission as a nonimmigrant visitor;
- (8) possess a round-trip transportation ticket;
- (9) obtain an approved travel authorization via Electronic System for Travel Authorization (ESTA);
- (10) waive the right to review or appeal a decision regarding admissibility at the port of entry or to contest, other than on the basis of an application for asylum, any action for removal; and
- (11) meet other program requirements.

See INA section 217(a)–(b); 8 U.S.C. 1187(a)–(b). *See also* 8 CFR part 217.

Hungary was designated for participation in the VWP on November 17, 2008. *See* 73 FR 67711.

B. ESTA Validity Period

Typically, pursuant to DHS regulations, a travel authorization issued under ESTA is valid for a period of two years from the date of issuance. *See* 8 CFR 217.5(d)(1).

However, the Secretary, in consultation with the Secretary of State, may decrease the ESTA travel authorization validity period for a designated VWP country. *See* 8 CFR 217.5(d)(3).² DHS publishes notice of any changes to ESTA travel authorization validity periods in the **Federal Register**. *See* 8 CFR 217.5(d)(3).

II. Reduction of Hungary's ESTA Validity Period

DHS conducts the statutorily required review of each VWP country at least once every two years to evaluate the effects that continuing the country's designation in the program will have on U.S. national security, law enforcement, and immigration enforcement interests. *See* INA section 217(c)(5)(A), 8 U.S.C. 1187(c)(5)(A).

In April 2017, DHS learned that individuals had fraudulently procured legitimate Hungarian passports by falsely assuming the identities of citizens who naturalized through a "simplified process." This simplified naturalization process, created in 2011, extends citizenship to ethnic Hungarians living outside Hungary and waives the standard naturalization requirement for an applicant to be a Hungarian resident for five years. This simplified process also eliminated identity management protocols that are conditions of the Government of Hungary's standard naturalization procedure, including the collection of fingerprints and a facial image of the applicant. Without complete biometric data, including an image of the recently-naturalized citizen from the simplified naturalization process, the Government of Hungary's passport application process became susceptible to imposter fraud. Additionally, the Government of Hungary identified corrupt officials who sold Hungarian passports.

In October 2017, the Secretary notified the Government of Hungary by letter that it had been placed on provisional VWP status (pursuant to which Hungary is subject to an annual assessment, rather than an assessment every two years) due to its noncooperation with earlier U.S. Government requests for information and collaboration in the investigation of passport fraud. The letter outlined steps necessary for Hungary to return to normalized status as a

² As noted above, this authority is delegated to the Under Secretary for Strategy, Policy, and Plans.

participating country in the VWP.

Despite engagement by U.S. ambassadors and DHS up to the Secretary level since 2017, the Government of Hungary has made only limited progress in addressing vulnerabilities created by its “simplified” naturalization process. Its failure to address the large volume of identities that continue to be at risk of being exploited for *mala fide* purposes and its lack of investigative cooperation with U.S. law enforcement presents an elevated level of risk to the national security, law enforcement, and immigration enforcement interests of the United States.

DHS is publishing this document announcing that effective August 1, 2023, DHS is decreasing Hungary’s ESTA validity period for travel to the United States from two years from the date of issuance to one year and limiting the validity of an ESTA for citizens or nationals of Hungary to a single use for ESTA applications received after the effective date of this document. This will have the dual effect of 1) sending a public signal regarding Hungary’s non-compliance with VWP requirements, and 2) in the case of those with regular travel to the United States, creating an opportunity to obtain updated application and travel history information of Hungarian VWP travelers for vetting purposes. This is necessary due to Hungary’s inability to fully satisfy its obligations under the VWP. Should Hungary’s non-compliance with VWP requirements continue, DHS, in consultation with State, may make further adjustments to Hungary’s VWP designation at any time, including suspension or termination from the program.

Robert Silvers
Under Secretary for Strategy, Policy, and Plans
Department of Homeland Security

